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AUG 30 2004

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant: Connor	)	Art Unit: 2122
	)	
Serial No.: 09/871,470	)	Examiner: Tang
	)	
Filed: May 31, 2001	)	SVL920010021US1
	)	
For: SYSTEM, METHOD, AND COMPUTER	)	August 30, 2004
PROGRAM PRODUCT FOR CREATING A	)	750 B STREET, Suite 3120
HIERARCHY OF SOFTWARE COMPONENTS	)	San Diego, CA 92101
BASED ON THE PROGRAMMING CONSTRUCTS	)	
THEREIN	)	

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Commissioner of Patents and Trademarks  
Washington, DC 20231

Dear Sir:

The record as a whole makes the reasons for allowance clear, and thus, a statement on reasons for allowance is unnecessary, 37 C.F.R. §104. The "Statement of Reasons for Allowance" thus might misleadingly summarize the record as a whole, and consequently, Applicant does not necessarily acquiesce in or agree with the Statement.

For example, the Statement appears to improperly attempt to import prosecution arguments into the claims, e.g., when the Statement implies that Claim 1 is patentable because the prior art fails to teach "(1) restructuring anything". The reason this is misleading is because Applicant's main point was that the cited reference (Iida et al.) is "not remotely relevant", that Claim 1 "ranks software components in an order that represents the ease or difficulty of restructuring programming constructs", and that Iida et al. does not restructure anything, much less order software components based on the ease or difficulty of reconstructing programming constructs - NOT that Claim 1 affirmatively requires actual restructuring.

Furthermore, Applicant does not acquiesce in the last paragraph on page 2 of the Statement regarding Claim 1, alleging that Iida et al. "teaches" certain things, when in fact Applicant has vigorously disputed the allegations and indeed when the allegations themselves appear to contradict the preceding paragraph of the Statement, unless, that is, the Statement has been miswritten by omitting the words "fails to" before the word "discloses", as seems likely. Moreover, the Statement mischaracterizes Claim 14 when it alleges that Claim 14 recites that "the list indicates restructuring the components" when in fact Claim 14 recites that "the list indicates the relative ease of restructuring the components". Claim 28 has been similarly misrepresented in the Statement.

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Continuing with the illegitimacies of the Statement, an allegation appears regarding a reference entitled "Matsushita", which reference has not been discussed heretofore. Accordingly, Applicant understandably cannot be expected to acquiesce in this last minute, improvidently made allegation. Applicant also does not understand the last paragraph on page 3 of the Statement, which appears to repeat earlier mistakes, and so does not acquiesce in it.

Respectfully submitted,



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